

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING THURSDAY, JUNE 10, 1999

Chairperson McLaughlin called the meeting to order at 1:30 p.m. at the DoubleTree Hotel, Pasco. She began by referring to an editorial that appeared in the USA Today newspaper that stated that the Washington State Gambling Commission rejected the Governor's call for a moratorium on mini casino card rooms. She said they had their facts wrong. In fact, the Commission's attorney assured the Commission that they could not put a moratorium in place because it would limit the number of licensees, which would be violating the state statute for the Gambling Commission. She said the Governor was aware of this and he agreed. The Commission went forward and for this and other reasons, continued the test program. She said there were regulations that could use the testing program as it was and also they agreed to slow the amount of licenses that were coming forward. She gave an opportunity for other commissioners to comment, but none did.

She introduced the members of the Commission and staff present.

MEMBERS PRESENT: **LIZ McLAUGHLIN, Chairperson;**
 MARSHALL FORREST, Vice Chairperson
 CURTIS LUDWIG, and
 PATRICIA L. HERBOLD;
 Ex Officio Members SENATOR MARGARITA PRENTICE,
 SENATOR SHIRLEY WINSLEY, and
 REPRESENTATIVE ALEX WOOD

OTHERS PRESENT: **BEN BISHOP, Executive Director;**
 SHERRI WINSLOW, Deputy Director of Operations;
 ED FLEISHER, Deputy Director of Policy and Government Affairs;
 CALLY CASS-HEALY, Assistant Director of Field Operations
 DERRY FRIES, Assistant Director of Licensing Operations;
 BOB BERG, Assistant Director, Special Operations;
 AMY PATJENS, Manager, Communications and Legal Department;
 JONATHAN McCOY, Assistant Attorney General;
 SUSAN YEAGER, Executive Assistant

LICENSE APPROVALS

NEW LICENSES, CHANGES, AND TRIBAL CERTIFICATIONS

Commissioner Ludwig moved to approve the new licenses, changes, and tribal certifications as listed in the agenda pages 1 through 20; **Commissioner Forrest** seconded the motion.

Vote taken; motion carried with four aye votes.

FRIDAY'S AGENDA

Ms. Patjens reminded the Commission that at the last Commission meeting there were some questions regarding the licensing process for enhanced card room licensees, and specifically about the gentleman who previously had his license suspended and then had a new license for a house-banked card room up for approval. Mr. Fries will give a report on that issue.

For tomorrow's agenda there are only a few rules. One rule will explain the type of card games that are allowed in this state. Another rule will discuss possibly repealing Washington Blackjack or some alternatives to the way Washington Blackjack is currently being operated. Four rules were filed after the last Commission meeting and

are up for discussion tomorrow. One is the definition of what an established business is and the last two rules deal with public disclosure to conform to state law, which states that non conviction data is not releasable, but conviction data is. She said there would be a time to discuss the request for video pull-tabs for charitable groups.

STAFF REPORTS

LICENSING PROCEDURES/ENHANCED CARD ROOM PROGRAM

Mr. Fries said there were some questions at last month's Commission meeting regarding the suitability of owners and managers involved in house-banked card games in the enhancement program pilot study. Today's briefing is designed to give them a general overview of the personal background information portion of the licensing process. He said he had given the commissioners an outline of his presentation. He said Ms. Patjens would present an overview of the legal process involved in the issuance of gambling licenses.

Mr. Fries began with the statutory and rule requirements that govern background investigations. The Legislature set a public policy in this state to deal with the criminal element in gambling and to promote the social welfare of the people by limiting the nature and scope of gambling activities by strict regulation and control. The Gambling Act of 1973, revised under RCW 9.46. 070, authorized the Commission to license for a period not to exceed one year, commercial businesses engaged in the selling of food and drink for on-premises consumption. In the same citation, the Commission was also authorized to investigate certain individuals to determine suitability for involvement in gambling activities -- individuals who are involved with ownership or management of the gambling activities, the building and equipment used for the gambling activity, and employees participating in the gambling operation. In that same statute, they authorized the Commission to delegate temporary authority to the executive director to issue or suspend licenses until final action by the Commission. WAC 230-04-255 authorizes the director to grant temporary licenses to conduct gambling activities upon administrative approval. And that completes their investigation for a period not to exceed 60 days. **Mr. Fries** said the director has given specific guidelines that help them in the main task which is to not license someone who is unqualified and to not hold up someone who is.

Commissioner Herbold asked if there was a sentence in their approval that says this is subject to Commission approval. **Mr. Fries** said it is not on the license, but they send out a special notification regarding that with the license when it is sent out. The notification says that, if the Commission within a 60-day period does not approve it, they will be notified. He said all of the licenses that the commissioners approve are within the 60 days. **Mr. Fries** said that when they talk about the licensing process, they commonly refer to it as the gambling license certification program as listed in WAC 230-04-005. This is a tool to prevent individuals with undesirable backgrounds from obtaining any kind of gambling license or from working in a licensed establishment or with an organization.

Mr. Fries said that when they process applications, it would typically involve submission of the application. In that application, the applicant would complete a criminal history and personal information form. The personal information form contains a 10-year history of addresses and their work experience. On the back of the form, there is a criminal history statement that asks questions like, "Have you ever forfeited or paid bail of more than \$25,000, including traffic fines or if they have been arrested, charged with a crime, convicted of a crime, jailed, placed on probation?" They must answer yes or no, the date of the charge, what the charge was, the city, county, state and disposition and date. They obtain this information from substantial interest holders, which is defined by WAC 230-02-300 as any person who either has actual or potential influence over the management or operation of any organization, association, or business entity either directly or indirectly. The rules provide that if there's a disqualifying factor, the applicant cannot work until they receive a license. They use the automated licensing system, which provides information from a variety of databases.

Commissioner Forrest asked how fast they received back the fingerprint check reports. **Mr. Fries** said there can be a delay, but their normal processing time is from three to nine months. The reason for that is because there are times when fingerprints are not submitted with the application or they are illegible and must be returned, and there are time when they have had to send them in a few times to the FBI and the Washington

State Patrol. **Commissioner Forrest** said he presumed that this would take up any use of an alias or if somebody would submit an application under a false name. **Mr. Fries** said all that data was available.

Mr. Fries said they have an FIU investigation's unit where information requested from the Washington State Identification and Criminal History Section (WASIS). They do a search through the National Crime Information Center, and point-to-point checks with other law enforcement jurisdictions throughout the state of Washington, and in other jurisdictions outside the state. The staff tries to focus on a ten-year window based upon the personal information form and criminal history statement, but if there is any arrest at any time, they do pick up that data. He said there is also the means to obtain information on those who live outside the United States, there is Interpol, which they check routinely if that is the case. Fingerprints are submitted to the Washington State Patrol and the FBI. They coordinate with several local, state, and federal agencies. Any contrary information, which comes to light must be explained in writing by the individual in question. If that individual fails to disclose any arrests or convictions that they pick up through their research, they reconcile that information before moving on. If it cannot be reconciled, they either hold the application or ask the individual to withdraw or administratively close it out.

Mr. Fries said that once they complete their investigations, they divide them into four different categories.

- 1) **Administrative closure** -- where the applicant fails to give information or to adequately explain it within 20 days of request;
- 2) **Voluntary withdrawal** -- where an applicant can withdraw an application at any time during the process without prejudice;
- 3) **Denial** -- for cause such as being on probation, there's an existing warrant, or if they have been convicted or been charged or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make payments to any government agency, false reports, bribery or influence of a public official, or any crime whether it's a felony or misdemeanor involving gambling activity, physical harm to individuals, or involving moral turpitude. Non felony convictions showing a criminal pattern or disrespect for laws or rules, failures to disclose certain information, making false application, hidden ownerships, illegal or unverifiable sources of funds, illegal activities conducted by companies or its officers, poses a threat to the effective regulation of gambling as demonstrated by prior activities, fails to prove qualifications of holding a gambling license;
- 4) **Temporary license approval** -- granted if they get through the process and the director may grant this temporary license.

Mr. Fries showed the commissioners some statistics for the fiscal year 1998. He said there were 681 applications filed and out of that they had 7 denials, 33 administrative closures, and 56 voluntary withdrawals. On the employee side they had four denials, 136 administrative closures, 515 withdrawals. He pointed out that the reason the number of voluntary withdrawals was so high was because they often telephone an applicant who doesn't qualify and give them the opportunity to withdraw on their own. The 515 figures is 18 percent or close to one in five applications. Opting out early saves resources.

Commissioner Herbold said she recalled that there is an existing rule, or one had been considered, regarding the enhanced card room rules -- that a person who applies for a license and they can actually start working subject to the administrative process of about 20 days. She wondered if they can finish that process in that time frame. **Mr. Fries** said the 20-day period was giving the investigators the ability to do some preliminary investigation prior to the individual going to work. However at the present time there is no 20-day preliminary period. **Director Bishop** said there is a rule currently that allows a person to go to work as soon as they submit a completed application. This has been on the books for many years. Their attempt to add the 20 days is an attempt to bring to attention the fact that they are getting a lot more of those who do not meet the requirements. They believe that if they are giving 20 days, they can do the basic checks in 20 days and they can find out if this person is going to meet the standard. They are trying to increase the regulation in that area rather than to decrease it as many licensees would like. With 20 days, they can catch 99 percent of the undesirable applicants, but the other one percent requires even longer because of false information being given which takes longer to discover.

Commissioner Herbold referred to Mr. Fries's delineation of crimes that result in denial of a license. She wondered what criteria they use to determine a denial if they discover crimes such as repeated DUI's, offenses

that harm others such as a rape. **Mr. Fries** said if there's a case of non-compliance with laws of any kind, and if it is unclear, it is handled on a case-by-case basis. It is heavily questioned and they may ask them to withdraw the application.

Commissioner Forrest asked if Mr. Fries is satisfied that the system is working now reasonably well to achieve the legislative purpose and excluding improper people from participating in the industry and if he thought it was administratively effective. **Mr. Fries** said the process is continually fine-tuned and they find better ways to do their job. There are more systems that they can check and more avenues available to gather information, they improve their investigative abilities through experience and training, and it is a good process.

Director Bishop said that adding the 20-day period makes him feel a lot more comfortable, because there are people who lie on their application because they think no one will check their application. Lying is considered a very serious offense, and failing to disclose even a misdemeanor may result in denial than a more serious offense that is disclosed up front.

Chairperson McLaughlin asked if they used the Automatic Fingerprint Identification System (AFIS). **Mr. Fries** said they did not at this time. **Chairperson McLaughlin** asked what the cost would be to install something like that. **Mr. Fries** said AFIS is expensive, but he does not have the figures at this time, but they are exploring that and a few other ideas as well; for example, an imaging system, for the licensing department.

Commissioner Herbold recalled that she had asked at the last Commission meeting about the possibility of providing the commissioners with more detailed information about the applicants. She pointed out that they often approve individuals that they have no knowledge about other than if one of them happens to recall a name or face.

Mr. Fries said Ms. Patjens would be discussing that later, but to answer her question, there is certain information that they can provide which is similar to qualification reviews in which they state that there are no pending charges against the organization.

Commissioner Ludwig said he had heard that the WSGC's licensing division is probably superior to any other in the nation and wondered if Director Bishop could confirm that. **Director Bishop** said that he knows that they can improve their record at catching individuals, but he also knows that in some places such as Nevada, that getting a permit is a local matter based more on revenues than background checks and that the checking that is done is also local which means that if they have had problems elsewhere, it would not necessarily be picked up. He said he thought WSGC was probably recognized outside of the state for their excellent system and he is very proud of it. He said the agency has had visits from England and Australia and they have set up agreements working through them informally for information sharing. The access the Gambling Commission has to the Law Enforcement Intelligence Unit is almost unprecedented for a law enforcement agency that does licensing. He said most licensing organizations do not have that type of access and that's also one of the reasons they must protect a lot of the information at the highest levels. He said they cannot afford to lose that accreditation.

Ms. Patjens said that the staff relies on one of the rules that clearly states that a license can be denied there are numerous traffic offenses, or for not paying court-ordered restitution. This demonstrates a willful disregard for complying with laws of any local jurisdiction, federal or state. Regarding the question of how difficult it would be to provide the information when the Commission is considering the licenses, Ms. Patjens explained that it would be fairly easy to compile information about people with a past administrative case. However, if they were seeking a breakdown of the specific criminal history information they had found, that would be more time consuming because they don't have a type of computerized database that they would clearly be able to pull that information from. It would require someone to take that list of licenses, go through the files and then if there was criminal history information, type that in and present it to the Commission in that manner.

Ms. Patjens said that of the 3,400 cases processed last year, only about 10 were referred for formal administrative charges. She explained that many times the people who have been denied a license want to have their day in court to explain their case to a judge and she gave an example. After the cases are received, the agency has two staff attorneys who draft the charges, then they are sent on to Director Bishop for signature. After that the person has a right to request a hearing. She said that when the staff come before the Commission

with a default order asking that it be entered. This is because the applicant has not requested a hearing. Sometimes when people receive formal charges it impresses upon them the reality of the denial of their license. The defaults are one of two ways the staff gets input from the Commission on whether they are doing their jobs the way the Commission wants them to. The other way is through appeals. After a person has had a hearing before an administrative law judge, if they're not satisfied with the outcome, then they can appeal that case to the Commission. She gave an example of two appeals cases they had brought before the Commission over the last year and a half. One case the Commission had stood by the administrative law judge's decision and the other was remanded back to the judge to do more fact-finding.

Ms. Patjens gave a summary of what typical charges are. Theft and assault are fairly common and occur usually within the last three to five years and some type of drug charges is common and a failure to report, misrepresentation where people assume they maybe will be able to slip through the cracks. Probation is fairly common charge. There are about 10 cases that are denied.

Commissioner Herbold referred to those who are denied and they either follow the administrative procedure to have redress for their grievances or they just walk away and say they aren't going to bother with it any more. She wanted to know about those who are not denied and come forward to the Commission for approval – of those, how many have had criminal histories and the agency has approved them anyway. **Mr. Fries** said there are inconsistencies in criminal history statements and personal information forms, but it would probably be from about one out of eight that they receive that they must further verify. He said anything major would be pulled and questioned, but he could not be definite because they don't keep track of the exact figure. He said he was definite, however, about the ones they had brought before the Commission had passed the litmus test.

Commissioner Herbold reviewed the staff policy regarding bringing cases before the Commission when the staff has determined that the past criminal history was too long ago, there were extenuating circumstances, or the activity was explainable or wasn't that serious. She used the example of last month's case where the applicant was brought forward for approval of Phase 1 and he had a history of having his license suspended. She wondered if the same thing happens when the staff is bringing cases before the Commission for licensing and certification approvals where some of those people actually have a criminal history, but the staff have determined in the same manner that the circumstances warranted bringing it before the Commission for approval. **Mr. Fries** said it was based on a ten-year window and the seriousness of the crime. If it involved a gambling activity, they would stretch the window very far because they are very protective of gambling. If it were rape, murder or some other felony conviction, they would also be protective. **Commissioner Herbold** said that this was coming to her mind because as the number of gambling establishments increase then the number of employees who will be trying to get licenses who may have had problems in the past will require investigating and it seemed to her that this might create problems for the staff. **Director Bishop** said that will challenge them and they would have to double their efforts to keep their standards high. He said standards would not be lowered because someone can't find employees.

Senator Winsley asked if she were correct with the numbers -- 681 applications – both individual and organization. **Mr. Fries** said that 681 was the number of commercial organizations only. There are 2,829 individuals.

QUALIFICATION REVIEWS

SPOKANE ATHLETIC ROUND TABLE, Spokane

Mr. Fries said a detailed report of the review was given to the Commissioners on this organization for its fiscal year ended December 31, 1998.. The organization provides civic and charitable services through contributions to sports program for underprivileged and physically challenged children and to other various athletic, non-profit and charitable organizations. The organization did not meet its net return for its Class "J" bingo license; however, the organization has applied for and is participating in the net return moratorium, which allows them to operate in their present class. There are no charges pending against the organization as of this date. Based upon the review, the staff recommends approval of the organization as an athletic organization authorized to conduct gambling activities in the state of Washington.

Larry Gustafson, executive director of the Athletic Round Table, said that even though they had a significant decline in play during 1998, they still gave away approximately \$120,000 to various types of charitable athletic events, people, and whatever they do every year in their community. They had \$20,000 in donated use of their hall. Between the two, they donated \$140,000. He said they probably would not be able to do that well this year. He said their games are still declining and they're concerned about that.

Commissioner Herbold wanted to know what types of services are in the category of supporting services. **Mr. Gustafson** said part of his salary and part of President Larry Smith's salary is allocated based on the function that they do. A lot of their time is spent giving away the money and tracking the money, and so forth. They get a lot of inquiries through the hall. The staff looked at that this year and cut them back on some of the allocations, but the fact is they are not out of compliance. He said that was their fault because there was a \$10,000 item that their accountant put into "non-program" that should have been in "program" and so they made that switch and they actually are in compliance. To live within their means they have cut out some of the expense involved with director's meetings to some extent. For example, they have a 15-member board that has a dinner meeting with expenses attached. Most of their savings come out of expenses in connection with that type of activity.

Commissioner Ludwig moved to adopt the staff's recommendation that Spokane Athletic Roundtable be approved as an athletic organization authorized to conduct gambling activities in the state of Washington.

Commissioner Forrest seconded the motion.

Vote taken; motion carried with four aye votes.

YAKIMA VALLEY OPPORTUNITIES INDUSTRIALIZATION CENTER (O.I.C.), Yakima

Mr. Fries said a qualification review was conducted of this organization for its fiscal year ending December 31, 1998. A detailed report is found in the commissioner's packet. This charitable organization served 100,160 individuals and households through their programs for 1998. Services include being the primary contractor for the U. S. Department of Housing and Urban Development (HUD), youth program to educate youth and construct low-income housing. The organization is the emergency food program regional distributor for Benton, Franklin, and Yakima Counties. It operates its own food bank in Yakima. It supports a juvenile justice prevention and intervention program which offers basic and management life skills classes for detained youths. The organization did not meet its net return requirement for its Class "L" bingo license. They met program and supporting service expenditure requirements and did not have excessive reserves. They received a notice of intent to limit their license to a Class "J" license effective July, 1999. There are no administrative charges pending against them at this time. Based upon this review, staff recommends that the organization be approved as a charitable organization and authorized to conduct gambling activities in the state of Washington. Representatives were present in the audience for questions.

Commissioner Forrest asked why the executive director's compensation of \$114,000 annually fell under the heading of gambling compensation when gambling activities was a relatively small part of the overall budget.

Mr. Fries said the executive director was not spending all of his time managing gambling. As executive director he is not necessarily paid out of gambling funds; he is paid out of other funds that they receive because they receive a lot of services. **Commissioner Forrest** asked if it should be shown as licensed gambling management paid more than \$40,000 if he's executive director, maybe some portion of his time should be allocated, but it seemed like his salary is misclassified. **Mr. Fries** said he would take a look at it.

Senator Prentice said she remembers seeing listed in other years more than just the executive director. She wonders if they are only listing the upper echelon. **Mr. Fries** said they only list those who are in excess of \$40,000 salary. **Director Bishop** said there are two categories that report – paid officers, board members, which is at any threshold and other non program-type people. He thinks the classification is wrong.

Chairperson McLaughlin said she noticed that both the Spokane Athletic Roundtable and the OIC bingo gross receipts were over \$2 million, and it occurred to her that the scholarships and contributions from the OIC were a lot less than what the Spokane Roundtable did. She asked if someone could comment on that. **Mr. Fries** said

the OIC has a lot of program expenses that they incorporate for serving clients. There are more than 100,000+ individuals as opposed to the other organizations. In the narrative portion, it explains that under "Type of Services Provided." He said he included those because there was some question last month about removing those and he wanted to make sure that the commissioners understood their program services that the organization supports.

Senator Winsley said it's shocking to her that a nonprofit organization would pay its director more than the Governor makes and she wondered if this was the norm. **Ms. Winslow** said this salary is higher than usual compared to some of the charities and nonprofits that come before the Commission and ex officio members. **Senator Winsley** said she thought the attorney general in this state makes something like \$70,000 and the Governor right now makes \$112,000.

David Flink, general manager of OIC's bingo hall, said their executive director and accountant were unable to attend today's meeting. He said he had been working for the organization for six months. Ending December he would make more than \$40,000. **Senator Winsley** said she had just wanted to make a statement about the salaries being very high when compared with the governor and the president of the University of Washington. The president of the University of Washington's salary is a little higher than the Governor's.

Commissioner Ludwig said it strikes him as somewhat strange to have gross receipts for bingo of almost \$3 million, pay-out prizes as \$2.3 million, leaving net receipts only \$600,000. And they show a net income of \$1,000. He asked if it is worth it to stay in the business. **Mr. Flink** said they are in the process of reorganizing and dealing with the competition of Native American casinos that have impacted their business and changes are being made to generate more than \$1,000 for the organization. **Chairperson McLaughlin** asked if pull-tabs are a better money-maker than bingo. **Mr. Flink** said for that time period it was.

Commissioner Herbold noted that the wages listed under their bingo activity were \$182,972. She assumed that, since they have the executive director plus other full time employees that the rest of the salaries would be allocations under supporting services. **Mr. Flink** said that that was correct to the best of his knowledge. **Commissioner Herbold** said they were talking about \$880,000 and there are 128 employees, 93 of which are full time employees. She asked what falls under the category of direct services for which they expended about \$5.3 million. She said she knew they had dealt with over 100,000 people and families and the like. She wondered what they did exactly with that \$5 million. **Mr. Flink** said the bookkeeper or the executive director would have to answer that.

Senator Winsley said this matter had been on the agenda and it has been published. She said the organization should have sent an organizational representative who could answer these questions. **Mr. Flink** said they also received a letter from the staff stating they were not required to appear. The executive director had other pressing business. **Chairperson McLaughlin** pointed out that their statement of purpose states the direct services they spend their money on and they do receive a letter saying that it is not absolutely necessary to attend, even if it is to their benefit to be here.

Commissioner Ludwig said he doesn't share everyone's concern about those direct services and expenditures because they get about \$6 million in non-gambling revenue and probably meeting federal requirements in distributing and spending that, but he is still somewhat concerned that out of almost \$3 million they get a net gambling income of only \$1,058. That money, except for \$16,000 of the almost \$3 million, the rest of it doesn't go to charity. He has trouble with that and he understands that Mr. Flink isn't at fault because he has only been there a short time, but it would be nice to know why they aren't producing a better income than that if he is working full time at it. He thought the "J" class they are limited to now is based on not net income but gross receipts.

Commissioner Forrest moved that they approve. He said they all have some concerns; however, if someone were to look at those financial figures a little closer, some of those concerns are going to vanish. He said if they take \$114,000 as it shows there as gambling manager – if by chance all of that or a substantial portion of that is in wages and is a bookkeeping transaction, it doesn't really convince him that it's not going for charitable purposes, and also true in this situation that since the bulk of their activity is funded from other sources, and they are performing a non-profit function there, he's not quite as concerned as Commissioner

Ludwig about that. He suggested Mr. Fries talk to the accountant or the executive director and express some of their concerns and maybe get a little feedback. He doesn't want the commissioners to wind up with an unfair impression of what they're doing, but it does seem to be an extraordinary small return. Despite these concerns, he moved to approve them as a charitable organization authorized to conduct gambling activities in the state of Washington. **Commissioner Ludwig** seconded the motion hoping that Commissioner Forrest's suggestion will result in a better explanation of why out of \$2 million they don't show a better net. Chairperson McLaughlin pointed out that it was almost \$3 million.

Commissioner Herbold said she is going to vote no because they get \$6.3 million from non-gambling revenue and she's sure they do lots of good work with that; however, she doesn't see their continuing as a licensed gambling activity when out of almost \$3 million they end up with a net return of \$1,000. She doesn't see where their charitable purposes are being adequately served so she will be voting no.

Chairperson McLaughlin asked someone to speak to the issue of why the net income is so low when the income is nearly \$3 million. **Ms. Winslow** pointed out that there have been significant impacts in the Yakima area during this time frame and that is why a large group of these licensees met with legislators because of the tribal gaming impacts in Yakima they were experiencing in that environment. She believes, but does not have the back-up support to substantiate her belief, that that is the cause for this problem. She said that it was a fairly profitable operation in the past and that it wouldn't continue making \$1,000 a year forever. She said the licensees got together to make suggestions for rule changes made for different market opportunities.

Commissioner Herbold asked if it would make sense that if this organization doesn't need bingo money for doing their good works because they've got other sources of money, and they've only got \$1,000 to work with, that by their not conducting bingo, then others in the area who are having problems would benefit from the customers who would no longer be playing bingo there. She doesn't see where \$3 million down to \$1,000 for their charitable purposes makes much sense. **Ms. Winslow** said it doesn't, and if the organization continued to operate with \$1,000 net income, it would eventually cease to operate, but they are anticipating things to change. She has been talking with a few organizations regarding what is happening in the area and they are saying that at first the tribal casino exerted a huge impact, but that now they are seeing some of their old customers back again.

Senator Winsley noted on attachment A there is an income of almost \$6.4 million, and then under program services, they have expenses of almost \$5.3 million and indirect is \$16,570 and attachment C shows that they are giving to charity, out of \$6.3 million and those are very small contributions to 11 different organizations. **Ms. Winslow** said that would be contributions made outside of their program that this organization serves. **Chairperson McLaughlin** said if they look at the first paragraph, it gives the names of charitable institutions. **Senator Winsley** said those are mandated by taxpayer moneys, federal and so forth and they are restricted as to what they can use them for.

Commissioner Ludwig asked how many bingo halls are in Yakima. **Ms. Winslow** said that off the top of her head, she thinks there are about 5 to 8 and that's the larger bingo halls. She said there are a lot of small halls that are there for social purposes that would increase that number. **Commissioners Ludwig** asked how other organizations such as this one compared in the area as far as low net income. **Ms. Winslow** said she didn't know at this point. She said the others were only talking about crowd size – not net income.
Vote taken; motion carried with three aye votes; Commissioner Herbold voted no.

Chairperson McLaughlin said she thinks this is an organization that, taking Commissioners Herbold's views, really should look at what they're doing in the bingo game. **Commissioner Forrest** said that everyone has concerns, and that at the next meeting the organization should send a representative who could answer some of their questions.

Commissioner Ludwig moved for a reconsideration of the vote. **Commissioner Herbold** seconded the motion. **Chairperson McLaughlin** said that it had been moved and seconded to reconsider the qualification review for Yakima Valley OIC until next month hoping that they would send people that could answer the questions that people have regarding their gambling activity. **Commissioner Ludwig** asked if the staff would

be able to give the Commission the previous years' report.
Vote taken; motion carried with three aye votes; Commissioner Forrest voted no.

Chairperson McLaughlin said they would be holding it over.

MANUFACTURER REVIEWS

IGT, Reno, Nevada

Mr. Fries said IGT has applied for a license as a Class F manufacturer. They have entered into a an agreement with Sierra Design Group, Inc. to provide IGT video lottery components for Sierra Design Groups tribal lottery systems. The organization intends to the market this system to compacted tribes within Washington. They will provide the lottery software and certain custom parts in combination with IGT's hardware and game art. IGT's corporate office is located in Reno, Nevada where all corporate and financial records are maintained. Their manufacturing facility is located in the same location. Agents verified employment and conducted personal background investigations on all corporate officers and directors listed in the report and there were no exception noted. As of April 30, 1999, there were 20 million shares of IGT common stock authorized and \$9,812,352 was outstanding. As of May 1, 1999, there were \$320 million shares of common stock and \$98,184,267 shares issued and outstanding. With the exception of institutional investors such as J. P. Morgan and Company Inc. with 9.34 percent of stock and Aerial Capital Management Inc. with 5.34 percent of stock, no individuals or other entities had more than 5 percent of the outstanding stock. IGT holds numerous state, tribal, and international gambling licenses. Contact with various jurisdictions did not reveal any disqualifying information. Funds to manufacture the video lottery terminal component parts for sale to tribes in the state of Washington were derived from cash on hand. Investigative procedures conducted onsite started April 26, 1999. Gambling Commission agents reviewed personal and corporate financial records and other documents for disqualifying information and no indications were disclosed.

Mr. Fries said a review of the manufacturing process was conducted to ensure that the company manufactured its own products. There were no indications of outside influence or exceptions noted. At the conclusion, agents discussed Commission rules and the licensing process with the applicant. At the conclusion of their investigation, staff recommends licensure of IGT as a Class F manufacturer.

Ray Pike, executive vice president, said they have factories in Sydney, Australia, and London, England, and operations on every continent except Antarctica. He complimented the staff on their thoroughness and thoughtfulness and he said they would recommend their investigative staff as an example to other governments in the world. **Commissioner Ludwig** said this is a very favorable report. He asked if IGT is a corporate entity. **Mr. Pike** said yes and that was because there was an unusual requirement in Nevada law when IGT first went public. The reason they have IGT and it's a wholly owned subsidiary is just the requirement that the Nevada license not be publicly traded, but it can be owned by a publicly-traded company. It is just one step removed. **Commissioner Ludwig** said it was the lack of the incorporation, which was strange to him. **Mr. Pike** said the president at the time had a philosophy of not reinventing the wheel and the company resembles in many ways other companies, for example, IBM.

Commissioner Ludwig moved to approve licensure of IGT as a Class F manufacturer in Washington.

Commissioner Forrest seconded the motion.

Vote taken; motion carried with four aye votes.

TRIBAL LOTTERY SYSTEM REVIEWS

Director Bishop gave an overview of the long process of getting where they are now. He said he and others would be presenting to the Commission for their review and possible approval the first two tribal lottery scratch ticket systems. The long road that they started in 1994 during the Centennial Accord, which was the meeting between the state and tribes meeting on a government-to-government basis. One of the big issues that came forward during that meeting was the fact that, although they had compacts and several operating casinos, the

tribes were not happy with the state's position on machine gaming. After the Centennial Accord, Governor Lowry and Attorney General Gregoire agreed to a consensual lawsuit – a declaratory judgment action – outside of the IGRA framework to resolve the machine gaming issue. The attorneys worked for more than a year on the particulars of how this would occur. In November of 1995, a Complaint for Declaratory Relief was filed in U. S. District Court. There were two actions filed – one in the eastern district with one tribe, which was subsequently dropped, and one in the western district.

Director Bishop said that in September of 1997, they received the decision from this request. Judge Van Sickle issued a Decision Order on a Motion for Summary Judgment that stated that the state won – slot machines are illegal and not negotiable in Washington. Then followed the “HOWEVER;” Washington law did not prohibit gambling devices per se and that other gambling devices were the proper subject of negotiation with two exceptions, and there were many discussion points during the negotiation. One was that devices activated by the insertion of a coin or other thing of value purchased by a person taking a chance by gambling in respect to the device are prohibited by RCW 9.46 – the statute that the Gambling Commission operates under. The second was that devices that allow for individual play against such device or terminals are prohibited by RCW 67.70, which is the Lottery statute over which the Gambling Commission has no authority.

Director Bishop said they began negotiations in October 1997 and over the next four months, they held several sessions negotiating with the tribes. The parties were the Gambling Commission, the staff, himself, and assistant attorneys general who had been prominent in the lawsuit. In January of 1998, they agreed they were at an impasse and weren't going anywhere and that they would go to the agreed-upon procedure for mediation. A mediator was appointed and between April and June of 1998 they held two separate mediation sessions of approximately two days each.

Director Bishop said they worked to negotiate and develop a Tribal Lottery System that would fall under the Lottery Act. Over the next four months, there were numerous negotiation sessions between the groups trying to complete the technical aspects of the system that were brought forward. The system was an online system much as the current system of picking numbers – Lotto, the Keno, etc., as well as the second part of the system, which was an electronic scratch ticket. This required a lot of technical negotiations and the process was finally completed in October. Between October and November, they briefed the Legislature regarding the proposed compact and held three public hearings in Spokane and the SeaTac area, and the final approval process occurred in November at the Commission meeting in Vancouver, Washington. The scratch ticket system was approved in November, and the Governor approved the twelve compact amendments in December of '98. Subsequent to that, the additional seven tribes asked to be brought under the compact and those were presented in January and approved.

Commissioner Forrest asked why the Commission was approving a lottery when they have no authority over lotteries. **Director Bishop** said the Commission has the mandate to act on the state's behalf regarding negotiation with tribes. So, from that standpoint, they have some business in the lotteries. **Mr. Fleisher** added to Director Bishop's comments that the answer from the lawyers was that under IGRA, if a game is available for any person or purpose in the state, then it is a required subject of negotiation and that includes the state government, which is the entity that can run the lottery. **Mr. Fleisher** said that before he got into the demonstration, he wanted to report on one of the requirements of Appendix X to the compacts, which authorizes these machines was that no tribe could operate a machine of this sort until all tribes were up to date on all their past due regulatory fees and that they had paid the state a combined total of \$250,000 for set-up fees to get their lab and other operations going. As of today, all the tribes are current on all their bills and the set up fees have been paid.

Chairperson McLaughlin said she is happy to hear that. **Mr. Fleisher** explained the process will be that if the Commission approves a Tribal Lottery System, then that system is authorized to be used by tribes in this state that have added Appendix X to their compact, but he just wanted to be clear to the Commission and to the public that that's not the final step before these actually go into operation. The final steps would be approval of the actual installations by the Commission's tribal gaming unit as well as the tribal gaming agency of the tribes. Mike Tindall, the WSGC Tribal Gaming Unit Manager, has been working hard over the last couple months in conjunction with the tribal gaming agencies to develop protocols for these new systems, including the requirements for verifying each terminal and each machine and software that is the correct software as

recommended by the lab, checking the closed-circuit television systems, the internal controls, and so on. The tribal gaming unit staff will continue to work with each tribe on this specific installations prior to any of these machines being put into operation for public play.

RECESS

Chairperson McLaughlin called the meeting back to order at 3:25 p.m.

MULTIMEDIA GAMES Las Vegas, Nevada

Dallas Burnett, Special Agent with the WSGC's Tribal Lottery System Laboratory, said that through the sponsorship of Squaxin Island Tribe, Multimedia seeks certification and approval from the Washington State Gambling Commission of an electronic lottery scratch ticket system conforming to the specifications set forth in Appendix X of the Squaxin Island Tribal Class III Gaming Compact. The laboratory testing was done primarily from Gaming Laboratories International GLI and they have examined the system and have certified its compliance with the Compact criteria. The Multimedia system is capable of supporting a variety of scratch ticket games. GLI has based its general conclusions on detailed testing of all components of the system and of the specific games -- the Spin and Shout and the Freedom 7's. GLI found the multimedia games at IVLS 2000 system and each of the games submitted to be compliant with the Compact requirements. Multimedia's Tribal Lottery System is an electronic scratch ticket system that supports up to 260 player terminals per central computer. The manufacturer and central computer are located within a secure enclosure of a tribal casino. The manufacturer computer generates the game sets and distributes the subsets to the central computer. The central computer dispenses electronic tickets to the player terminals on demand. Operation staff, tribal gaming agents and state gaming agents may generate game reports from the central computer. He referred the commissioners to the diagram in the packet and went through the system with them.

Mr. Burnett said the major components of the system are one a manufacturer computer and one a central computer. The manufacturer computer goes ahead and generates game sets like an electronic game and would go ahead and send those tickets down to the central computer where it's randomized and organized into subsets and ready for distributions to the player terminals. Once a player comes to the player station and asks for a ticket, the central computer would then distribute that ticket to the player station and allow it to be opened. Essentially, the person would come up to the point of sale, generate a new account, and a magnetic card, which is their cashless base system of choice is produced. Then they drop credits or money onto the card and the card is given to the player and the player comes over to the player station, inserts the card into the player station, and the display is set up. The player would choose between the three types of games offered, and a ticket is then sent to the player terminal ready to be scratched off. Then they press play and the ticket is shown.

Chairperson McLaughlin asked what would happen if a person would put \$100 on a card and then decide not to use it all. She wondered if they can come back and cash that out without having to play it. **Mr. Burnett** said that with the magnetic card system, they could take that card, put it in their wallet, go home, come back the next day and say they want to cash out the account, it will be run and an identification pin number is assigned to the card. The ID number is typed in, press the "cash out" button and all the credits and money that's left in the account is paid out to the player. **Chairperson McLaughlin** asked how many machines can be on one terminal. **Mr. Burnett** said approximately 260-player terminals can be hooked up to the system. **Chairperson McLaughlin** said there must have to be more than one computer. **Mr. Burnett** said it would require more than one central computer. The central computer is the main distributor. What it does is it waits for the player to select the game so that it realizes from which games to choose and sends ticket to the player terminal. **Chairperson McLaughlin** said the negotiations permitted that the players can only play against the other players that are playing against the computer. **Mr. Burnett** said that was correct and that this particular machine has 260 player stations so there will be 260 other people will be playing. All the tickets and every chance and opportunity is being generated on these computers and distributed among those 260. It is not like a slot machine. All the randomization does not happen at the player terminal. **Chairperson McLaughlin** asked if more than one person could win on the same game. **Mr. Burnett** said it is similar to the scratch ticket state lottery when a person goes to the store they buy a ticket, and only the person buying the ticket can have it, but there may be four \$5,000

winners.

Commissioner Herbold said the random generation of the winning ticket is comparable to the randomness of reaching one's hand into the fishbowl and pulling out a scratch tab. **Mr. Burnett** said this company goes by compact negotiation in the Appendix, they actually test the random number generator and four different theoretical analysis processes in a very complicated mathematical processes that has to go through and they go ahead and assure that each selection or each shuffle of the tickets are completely random, but it is a finite number of tickets. **Commissioner Ludwig** said according to the negotiations or Compact agreement, this has to be at least 70 percent pay-out. **Mr. Burnett** said that was correct. All the particular games they have been seeing are over 90 percent pay-out. **Commissioner Ludwig** wondered if an individual purchaser – casino operator – ask for and get computerized program of say 95 percent pay-out. **Mr. Burnett** said all the games must be approved through the WSGC laboratory and GLI and each one of those games are software-signed, so they can verify that that's the game that's gone through the process and that at least pays out over 75 percent. He thinks they will never see anything under 90 percent. **Commissioner Ludwig** asked if one player could, for instance, order a finite number that was set at 95 percent and another player could order a set that was paying out 98 percent.

Mr. Burnett said that was possible, but it would probably be a different game title or a different game play. For example, Multimedia has got Freedom 7's but they also have a Spin and Shout, which is a slightly different pay-out structure than the Freedom 7's. They'll either have higher high-end or lower lower-end prizes.

Commissioner Ludwig said his basis for the question is that when someone goes to Las Vegas, they can see the difference with slot machines as opposed to this -- they can advertise 98 percent pay-out or whatever -- and he's wondering if the tribal casinos could do that competitive sort of marketing. **Mr. Burnett** said theoretically, yes, they could do that, and the Washington State Lottery's online system gives the player information about which game actually produces what kind of percentage pay-out.

Commissioner Herbold said the demonstration machine seems very quiet and wondered if that were the normal operating volume. **Mr. Burnett** said some are loud, some such as the demo quiet. Some systems are going to be on the game floor and the others are going to be in a locked in a back room in a secure enclosure under cameras, fingerprints, ID and everything to get inside. **Commissioner Herbold** asked what happens when someone wins as far as noise, lights are concerned. **Mr. Burnett** said a winning ticket produces bells and a ting-ting-ting-ting sound would be produced, but also if it was a winning over \$1,200, by IRS regulations, the system locks itself off, the casino employees come out and fill all the proper forms out for IRS and then reset the machine so it would continue to play on.

Commissioner Forrest said that if he walked into a casino on a quiet night, purchased his money card, and began playing when no one else was there, would he be playing against the machine? **Mr. Burnett** said he's playing against himself. He said he would be playing against the game set. These game sets produce a large amount of tickets, so the ticket or game subsets that are here won't run out for maybe a week or two later with really consistent play. So a player may walk in one day and play, but everyone else in front of him has been playing out of the same game. **Commissioner Herbold** wondered if there is a prohibition against stopping the play so that the winning tickets never get played. **Mr. Burnett** said there is so much encryption now, but in earlier versions, they could anticipate a win better, but with Multimedia, someone would have to predict which one out of 260 terminals would produce a winning ticket. He there was no way of breaking into the system that he is aware of.

Mr. Fleisher said one of the main things the staff has been looking at in compliance with the compact is to ensure that no one is able to access the game set while it's in play, so they know whether the winners or losers have been played or not. They require a 75 percent pay-out in the compact. The compact requires that if a game is pulled from play prior to being completely played out, a game report is produced. If less than 75 percent was paid out on that game, that shortfall has to be put into pay-out in future games. **Commissioner Ludwig** observed that there is a little more fairness put into this system than there is with playing pull-tabs. **Mr. Fleisher** said on a pull-tab game, the licensee does know what's left in the deck and can pull that game before it's completely played out if they choose to.

Chairperson McLaughlin asked if the casino has to post how much has been paid out in that particular game, like they do in pull-tabs. **Mr. Fleisher** said no, that has been prohibited within the compact because no one, including the regulators or the casino management is allowed to access the data that shows the status of that game at any particular point in time. **Chairperson McLaughlin** said that if the machine is shut down when someone wins \$1,200 in order to pay the IRS, how are they not going to know? **Mr. Fleisher** said that for individual wins, those would be known; but in games like the example, there are hundreds or thousands of winning tickets within any particular game set and the data that keep tracks of that is not accessible until the game is completed. **Mr. Burnett** said it would be difficult to get an accrued amount.

Commissioner Ludwig asked if what he's playing with the smartcard is like an electronic form of a scratch ticket. **Mr. Burnett** said that yes, it is. **Commissioner Ludwig** asked if the machine also performed the other function of the electronic tribal lottery. **Mr. Fleisher** said that so far no one has and if they wanted to put in an electronic lottery form into the system, they could, but it would be necessary to have the ability to print out tickets or some other form in order to distribute tickets by Appendix X. There is a whole set of other requirements that must be performed. **Commissioner Ludwig** asked if that were developed yet or not. **Mr. Fleisher** said it had not been developed by the manufacturers so far. **Commissioner Ludwig** asked if this meet the requirements totally of the compact amendment. **Mr. Burnett** said this would not have been brought before the commissioners unless it met every single requirement of the Appendix. **Mr. Fleisher** said Gaming Laboratories International's recommendations to the Commission contained in their voluminous testing report that it complies with all provisions of Appendix X, and in staff's opinion, it does as well.

Senator Prentice asked if the ex officio members vote on this because it deals with an amendment to the tribal compacts. **Director Bishop** said that the Jim Pharris of the Attorney General's office said they did not because the statute is specific regarding compacts and this is a normal approval process. **Mr. McCoy** said he thinks the compact amendment itself was the action that the ex officio members participated in and this is implementing it and this is an authority that's under the compact delegated to the Commission. **Mr. Fleisher** said the language was pretty narrow on what it said. It said "they are voting members for the sole purpose of voting on proposed compacts submitted under this section," which is the compact negotiations section. **Senator Prentice** said she's quite sure that, at the time they voted, it never dawned on them they would be faced with this.

Chris Kealy, with Jimmy G's of Tacoma, asked how they account for a machine that doesn't show the wins and losses for several weeks. If it's not very popular one month, how is the drop and win and how are the accounting functions taken care of when it stretches for such a lengthy time. **Mr. Burnett** said right now, if they wanted to, they could pull the game and do an audit of every single game ticket in the whole set. The ticketing process is an electronic format and how that distributes them and how it keeps all of that in its system. It's more important to protect the integrity of the system than it was for an accounting portion of the whole entire game. They wanted to make sure that certain reports are generated to help accounting out, but they didn't want any additional information that might provide an integrity issue with the system.

Commissioner Ludwig said, based on Mr. Burnett's earlier comments, the Tribe couldn't pull a game without staff approval and it would be for accounting, and auditing, and regulatory reasons only. **Mr. Burnett** said that was correct. **Mr. Fleisher** said they can pull it for many reasons. This was discussed during negotiations because there may be some times when they want to switch to different games. There may be some games that the public just isn't playing, so they can pull them for whatever reason they want to pull them. **Commissioner Ludwig** wanted to know if they don't know what they're pulling. **Mr. Fleisher** said they will know what particular status that particular set of scratch tickets is in when they pull it. Also, on the accounting question, while they are not keeping track of each particular set of scratch tickets on an ongoing basis while the game's in play -- and even these three-line machines have three sets of scratch tickets in them -- they are getting daily accounting data on the drop from the cash terminals as well as aggregate data on all the games being played, but not individual data on particular sets of scratch tickets. So, they do get a daily account of the aggregate, which is all they really need for the accounting of the money. **Commissioner Ludwig** asked if they don't have the same luxury that a pull-tab licensee has. **Mr. Fleisher** said that was correct.

Commissioner Herbold asked how many tickets are in a game set. **Mr. Burnett** said the Freedom 7's game has about 700,000 tickets in one game set. **Commissioner Herbold** asked if each casino stands alone as far

as their games and their subject computer and their manufacturing computer that creates these sets. **Mr. Burnett** said yes and one of the things they don't want to have happen is having remote accessibility to the system, which would create an integrity issue. **Commissioner Herbold** said she assumes, with that in mind, that a casino has to have more than one Freedom 7's machine in order for there to be more than one player playing that set. If there is only one Freedom 7's, then that player is playing against the machine. **Mr. Burnett** said that was correct.

Commissioner Ludwig said he is making the assumption that the operators of tribal casinos' decision to pull a set might be based on a machine not getting any play on it. **Mr. Burnett** said it could be that or they might find that there's a problem with the particular game or they just want to pull it to do a complete audit of the system to make sure it's working correctly and at that point they would do that.

Chairperson McLaughlin asked if there were any other comments anyone wished to make. There were none and she called for a motion.

Commissioner Ludwig said that, on the basis of the fact that the Commission negotiated the compact amendment on the advice of the attorney general and on staff's assurance and the laboratory's assurance, both external and internal that this complies with the compact requirements, he moved that they approve this particular system, Multimedia's Freedom 7's machine. **Mr. Burnett** interjected that it's the whole system of the IVLS 2000 system. **Commissioner McLaughlin** seconded the motion.

Commissioner Herbold said that for all the reasons that she voted no on the compact amendment, she will be voting no on the machine.

Commissioner Forrest said that he would be voting yes very reluctantly. He said the Commission made a terrible mistake in approving the compact amendments, but having done so, he believes the Commission is legally bound to approve this.

Vote taken; motion carried with three aye votes; Commissioner Herbold voted no.

Gorden Sjodin, Multimedia Games, introduced Gary Loebig, who is the vice president and head of marketing and development for Multimedia; Mr. Jeff Lind, integration engineer; Jim Payne, who leads their service tech team in the state of Washington; Bruce Johnson, Gaming Commissioner for the Squaxin Island Tribe, who is their sponsor in bringing this to the state and to the Commission and through the GLI. He thanked the Commission for its support. He said they had worked hard to put this system together for the tribes.

Commissioner Ludwig asked if the Squaxin Island Tribe's facility is the Little Creek Casino. The answer was yes.

SIERRA DESIGN GROUP (SDG), Reno, Nevada

Mr. Burnett said SDG is coming forward with three separate games: the Red, White, and Blue; the Stars and Stripes; and the Double Diamond; which make up their particular system at this time. Gaming Laboratories has examined the system and has certified its compliance with compact criteria. The SDG system is capable of supporting a variety of scratch ticket games, GLI has based its general conclusions on the detailed testing of the three he just mentioned.

Mr. Burnett said the Sierra Design System is a fundamental scratch ticket system that features 16 player terminals networked to a lottery game controller. The controller, which contains a manufacturing computer and a central computer. It is responsible for generating game set formation of subsets and distribution of electronic scratch tickets to requesting player terminal stations. Accounting information is communicated electronically to the player accounts server located in a secure area within the tribal casino and reports are generated from the management terminal, the operations staff, the tribal agents, and the state gaming agents. He called the commissioners attention to the diagram and pointed out the two systems were drastically different in their

architecture. With the manufacturing of the central computer of the Multimedia systems are huge mainframes. The main LGC is what they call it -- the lottery game controller -- which contains the manufacturing and central computer in it and its essentially a small computer system that works independently from each other and the manufacturing sends all the game set information which happens to be in this particular game 2.6 million tickets to the central computer which organizes it, puts in the subsets, and sends them out to the player terminals upon request. This particular system is a paper type cash-less base system where the player will go to the cashier terminal and produce a cash ticket and walk up to the player station, insert it, and then he would put the credits back on the machine so that he can begin to play. By compact, everything in the machines must be good for 15 days so it could be taken home and brought back the next day. Different tickets are used. When a ticket is cashed out it goes into accounting to show that it has been paid out, but a new ticket is generated so the player can take that to another player station and begin playing again.

Chairperson McLaughlin asked about the haziness on the machine's graphics. **Mr. Burnett** said the haze is created when the machine acknowledges that the draw has been received. He then hits the button to cash out and it prints another ticket. He pointed out that the back office system was located in a huge area on the machine where on the Multimedia System, it integrates that into central computer with those big machines so that they can process them and this keeps tracks of the player accounts, tickets accounts so all the auditing is run off of those machines and the reports.

Commissioner Ludwig asked if the machine had the multiple subset to it. **Mr. Burnett** said it did and this particular system produces multiple game sets at the same time. Actually, it would produce one game set halfway through it playing, and it would integrate another game set on top of it and be alternating between subsets of different game sets at the same time. **Commissioner Ludwig** asked how those different sets would appear. He asked if they would still be the same stars and stripes. **Mr. Burnett** said that was right. Like pull-tab games a person can buy one particular name of a pull-tab game and the player could keep on buying that particular type or scratch ticket game. **Commissioner Ludwig** asked when another player would know when another game set is in play. **Mr. Burnett** said they would not know and the same is true with Multimedia, the player does not know. **Commissioners Ludwig** asked if this system had the same restrictions and protections here that the other machines have. **Mr. Burnett** said that was correct. When a game is pulled, it can't go back into play again.

Chairperson McLaughlin asked if this is the machine that's at the Muckleshoot Casino. She wondered if the Commission approves it today, when would they be able to start playing. **Mr. Burnett** said it is the same machine that's at the Muckleshoot Casino, and they can start playing when the formal letter comes down from the Commission. He said he believes that when the letter is handed to the tribal gaming agent staff at this meeting, then it will go to the WSGC Tribal Gaming Unit (TGU), and TGU has to give the okay for them to begin. The TGU is still in a pre-operational phase, although they are nearing the completion of that phase. They first will assure that the system is going to work right mechanically and that the people know how to regulate the machine and to assure that it's played correctly.

Chairperson McLaughlin introduced the representatives from Sierra Design Group.

Bob Luciano, president of Sierra Design Group, introduced Warren White, who is vice president of their software systems development; Chuck Portagle, who does the database development; Chuck Reiners, who is the head technician, and, Rich Fiori, who does all the casino floor plan design and graphic layouts and signage here to get the system set up so that the Commission can observe them today. There are also a number of members of the Muckleshoot Tribe here who have been terrific sponsors for Sierra Design Group. He said their involvement has been extensive and they are working with the tribes for a long time in the whole process. It is their mission and focus to make this the highest level of integrity and represent the best forms of gaming under the guidelines and direction of the Washington State Gambling Commission for the tribes here in Washington state.

Commissioner Ludwig asked if this has a pay-out similar to Multimedia's machine. **Mr. Burnett** said yes, it does. **Chairperson McLaughlin** asked if it fit all of the criteria of the compact amendment. **Mr. Burnett** said yes, and on both manufacturers, anytime they have requested a change because of its ability to comply, they've been more than happy to do it within days, if not hours, to make sure that it complies with every request.

Commissioner Ludwig moved, because the Commission had negotiated that compact on the amendment and containing certain specifications and with the advice of the Attorney General and consistent with what Commissioner Forrest said, having done that, he moved that they approve Sierra Designs machine system designated Millenium. **Chairperson McLaughlin** seconded the motion.

Vote taken with three aye votes; Commissioner Herbold voted no.

Chairperson McLaughlin said they had voted for the first two machines in the state of Washington that meet the criteria – the compact amendments that the judge said the Commission should negotiate on that aren't slot machines. She asked if there was any comment from the public.

COMMENTS FROM THE PUBLIC

Mr. Kealy commented on what Commissioner Herbold said earlier. He said one of the elements that too often gets left out of the story is that the mini casino owners have to sign the license application of the individual to have them go forward and be licensed for their facility. In the process, the way the Commission is set up, the application, they must divulge accurately previous criminal history and therefore the employer gets to see that. If someone lies on the application, they're going to be on top of that, so they do get an accurate description of what this person's previous history has been like and he thinks part of the elimination process they will see growing is they will see fewer people being eliminated by the Commission because the mini casino owners are becoming more aware of how security and previous patterns of behavior are important to them as owners and therefore they don't want to employ people that have felonies from ten, twelve, or fifteen years ago, and people who have thefts on their record or repeated DUI's or offenses that don't give the WSGC to bar them from employment, but in fact the employer has the discretion to not employ those people. He wanted the Commission to realize that there is a third part of the triangle – the employer.

Chairperson McLaughlin asked if the Recreational Gaming Association has a list of people who are not licensable that is circulated around between the various casinos. **Mr. Kealy** said no, and that he feels such a list might get them into trouble, because employment laws are tricky issue and passing of information in collusion with others might be something he would want to avoid. He said he will use the WSGC application because it makes him sign it and he must know what they've done. Out of 60 dealers who had been trained for six months, he pulled 22 applications aside and told them they were unfit to work in his casinos and he said he would never sign their paycheck. He said that brought about a change in their own administration in how they go about approving somebody to even be trained because he didn't want this type of person working for him.

Nick Peck, administrative director of the Silver Buckle Rodeo Club in Vancouver, Washington, said at last month's Commission meeting, he was present at the qualification review for 40 et 8, their colleagues and rivals in Vancouver. Commissioner Heavy asked a series of questions of their representative and their responses to which provoked some laughter from the audience. He addressed that in a letter to the commissioners recently and he wanted to put some comments on the record in public. **Mr. Peck** said Vancouver is what, at the moment, represents the only surviving corner of the state of Washington that represents conditions as they used to be before the expansion of gambling arising out of the mini casinos and the Indian Tribal gaming that has grown and grown over the last few years. The fact that 40 et 8, and us, shows some reasonable figures over the past few months is a sign not of the survival of nonprofit bingo in this state, but it is a sign, actually, of the wreckage that the expansion of gambling around the rest of the state causes.

Mr. Peck said his colleague from Yakima Valley OIC just a few minutes ago was hauled over the coals for some apparently very poor figures and his heart goes out to him. He said he has in front of him the figures comparing attendance in some of the figures between the month of April in 1998 and 1999. Their average attendance per session dropped from one month to the other by 25 percent almost. If one were to look for a cause, he would invite the Commission to look at the opening up of casinos and mini casinos in his area and the fight for survival that he and many of his colleagues in Yakima Valley are going through at the moment. The nonprofit bingo industry in this state is struggling to survive and in Vancouver they have the test case that proves the point.

Senator Winsley asked Mr. Peck what his salary was. **Mr. Peck** said his salary is \$36,000 per year.

Chairperson McLaughlin asked if there were further questions or comments. No one came forward. She said there would be an executive session followed by adjournment.

EXECUTIVE SESSION -- MEETING ADJOURNED until Friday, June 11, at 9:30 a.m.

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING FRIDAY, JUNE 11, 1999

Chairperson McLaughlin called the meeting to order at 9:30 a.m. at the DoubleTree Hotel, Pasco, Washington. She did not re-introduce the WSGC staff and Commission members at the head table because she had done so yesterday.

MEMBERS PRESENT:

LIZ McLAUGHLIN, Chairperson;
MARSHALL FORREST, Vice Chair;
CURTIS LUDWIG; and
PATRICIA L. HERBOLD
Ex Officio Members **SENATOR MARGARITA PRENTICE**,
SENATOR SHIRLEY WINSLEY, and
REPRESENTATIVE ALEX WOOD

OTHERS PRESENT:

BEN BISHOP, Executive Director;
SHERRI WINSLOW, Deputy Director, Operations;
ED FLEISHER, Deputy Director, Policy and Government Affairs;
CALLY CASS-HEALY, Assistant Director, Field Operations;
DERRY FRIES, Assistant Director, Licensing Operations;
BOB BERG, Assistant Director, Special Operations;
AMY PATJENS, Manager, Communications and Legal Dept.;
JONATHAN McCOY, Assistant Attorney General; and
SUSAN YEAGER, Executive Assistant

APPROVAL OF THE MINUTES FROM THE MAY 13-14, 1999, MEETINGS

Chairperson McLaughlin asked if there were any changes to the minutes from the May 13-14, 1999, Commission meeting held in Vancouver, Washington. **Commissioner Herbold** asked to defer approval until next month, since the minutes were received by the commissioners only yesterday and she asked if it would be possible to defer approval until next month. **Mr. McCoy** said he did not know of any prohibition. **Commissioner Ludwig** suggested they approve them subject to later amendment or correction. **Commissioner Herbold** said that would be fine, as well. **Chairperson McLaughlin** said the minutes would stand unless someone later finds a correction by the next meeting.

NEW OFFICERS

Chairperson McLaughlin said they were going to place Washington Blackjack ahead of the cardroom rule, but before that, Mr. McCoy informed them that the Commission should announce that the executive director will be receiving a raise that the Washington State Employees will receive on July first. The governing body must make that decision, so unless there is any reason to have a motion, she said that she thought that just making this statement on the record is enough. **Mr. McCoy** concurred.

Chairperson McLaughlin announced it was time for the annual change in the officers of the Commission and she said she would accept a motion for new Chair and Vice Chair.

Commissioner Forrest nominated Commissioner Ludwig for the chairman stating that he had demonstrated in the past his fairness toward all. **Commissioner Herbold** seconded the motion. **Chairperson McLaughlin**

called for any other motions for chairman. Hearing none, she said that Commissioner Ludwig has been appointed as the new chairman.

Vote taken, motion carried with four aye votes.

Commissioner Ludwig thanked his colleagues for their support. He said he was somewhat reluctant to accept because the normal process would have been that Commissioner Forrest would be the chair and then Commissioner Herbold. But because this is the last year of his term, he accepted the nomination and nominated Commissioner Forrest for vice chairman. **Commissioner Herbold** seconded the motion.

Chairperson McLaughlin said Commissioner Forrest has been nominated for vice chair. She said she looked into how the chairmanship and vice chairmanship has gone over the years. She said Bob Tull was chairman at least nine years out of his ten on the Commission, so there is no actual progression. She called for other nominations for vice chair. Hearing and seeing none, she announced that Commissioner Forrest was the new vice chair. **Commissioner Forrest** said he is honored. **Chairperson McLaughlin** said she has enjoyed being chair this past year.

RULES FOR FINAL ACTION

WASHINGTON BLACKJACK

Amendatory Section WAC 230-40-125 – Washington Blackjack – Rules of play – Wagering limits
Repealed Section WAC 230-40-125 --

Ms. Patjens said there are two rules up for discussion and possible filing today. The original rule clarified that fees for Washington Blackjack could only be collected using the time basis. Also it was made clear that there would only be six decks used for Washington Blackjack and that with minimum banks, they could not exceed \$500. Currently there is no limit on what the minimum bank can be so if the house wanted to say the minimum bank is \$2,000, the house could do that. The last thing that the original rule does is take out the provision that the house can use house dealers so it would go back to being a player who came in off the street who would be the dealer. The second alternative would decrease the number of decks from six to two and then also make it clear that if a player passes on dealing, then they would have to sit out the next two hands. The final alternative is a repeal of Washington Blackjack and they heard last month about the current investigation that staff had done on Washington Blackjack. There were about 23 businesses in the state who were doing that. Ten of them are no longer doing it based on orders of summary suspension that were done by the director because they were not doing Washington Blackjack per the rules. Now they are down to 13 businesses that are doing it. She pointed out one letter in the packets from a business supporting Washington Blackjack asking that it not be repealed and they have found with Washington Blackjack that it has been very difficult to regulate and the best way to get a handle on what is going on is to actually have to do an undercover investigation which is what staff had done. The staff recommends the repealed section be adopted.

Commissioner Forrest asked if they adopted either of the other two versions, is it the staff's view that that would still not really solve it as far as regulating it easily. **Ms. Patjens** said that is correct, and if the staff had to choose between the original and the alternative, they would choose the first alternative because then at least it's clear that they do have to pass the deal. **Director Bishop** said it would be easier to regulate, but it would still be extremely difficult, walking in, to do a routine spot-check on Blackjack played under the alternatives.

Commissioner Forrest asked if he is correct that this was originally passed as kind of a rescue operation for the card rooms when house-banked Blackjack became available to the Indian casinos. He recalled that in past discussions, it was something that was kind of invented to allow the card rooms to offer a more attractive package. **Director Bishop** said Washington Blackjack began prior to the tribal casinos and when the card rooms were not doing too well – they were stagnated – they needed a new game. The staff did a lot of research and actually did a pilot test on Washington Blackjack. There was some controversy, but they got no complaints at all during the pilot test from officials or anyone else, so it was implemented. But the original game was strictly between players and the deck had to rotate to force the deal around. In Blackjack there is a house advantage – it's just the way the game's played. The fact that the players have their cards up and the dealers are down and

the fact that the dealer gets to play after everyone else has played their hand -- those types of things give the dealer an advantage. In order to make it equal among the players, they got to the conclusion that if they forced everyone to deal by passing the deal around, everyone would get their chance.

Director Bishop said the game was very specific so that the players didn't touch their cards, the bets had to be matched beforehand, and only played with one or two decks so a dealer wouldn't have it for a long six or eight decks. As the years went on, the industry requested and received several refinements of the game. One of them was if there were five or fewer players, a player didn't have to sit out if they didn't want to deal. The other major change was putting in a provision for a house dealer, which helped make it appear to be more like the real Blackjack. It helped to have a house dealer as far as controlling the game, but it made it very difficult to find out who was banking the game. They discovered that the banker was quite often not even at the table at which he was banking a game. More recently, there were professional bankers -- it has even become a business in Washington state for people to be professional bankers. And for that reason, the staff is asking that it be repealed. Today, with house-banked games, an operator has the opportunity to play Blackjack and all the other games and he doesn't think they still need that little help. It will hurt some of the smaller operations and he is sorry about that. He said he hates forcing someone to go to all the expense, but he thinks they need better control.

Commissioner Ludwig said he recalls that the lack of control on who was banking the game and if they are at the table was one of the considerations he thinks that may have been heard by the Legislature when they went to house banking to eliminate those problems. **Director Bishop** said he heard it mentioned at least three times. They thought house banking would lead to a better environment than what was happening in Washington Blackjack games. He said he thinks it has. He said they could put the same controls in Washington Blackjack, but that would just drive the costs up. **Commissioner Ludwig** asked if there had been other comments from those 13 that are still doing it, other than the letter they had received in their packets. **Director Bishop** said he received one himself. **Ms. Winslow** said she is not aware of any comments received and they sent out notices that these WAC rules were on the agenda, so every card room licensee that is operating Washington Blackjack would have been notified. **Director Bishop** said that, of the 13, he thought there were two or three more that are in line to go into house-banked. **Ms. Winslow** said there are some, but not all of them were going for the house banking.

Chairperson McLaughlin asked what the possibility was of taking action on it, but just delaying the effective date until after the test program, because they can't get into house banking unless they are on the list. **Director Bishop** said that would be better than nothing and maybe more fair. He said it still leaves the staff in somewhat of a dilemma of trying to regulate an activity when they are already short-handed trying to get into the pilot program. If he has to use resources there, there might not be many staff available for putting people in the pilot program. Maybe the alternative is to go to the alternative form for the rest of that period, which would give some relief and better control, but he doesn't know. Extending it for six more months does not get rid of the problem.

Ms. Winslow favors the alternative approach and then at the end of the test program come forward with a repealer and keep people on notice that that is what is going to happen. **Director Bishop** said that, on the other hand, he thinks that if they prevail at the hearing for the ones that they have and the word gets out, it may put the people on notice that they better not violate the rules because their license is at risk, not only now, but for future activities, by having their license revoked. That in itself means they would be out of gambling, period, for awhile. If they commit an act that's serious enough to have their license revoked, a person probably shouldn't be in gambling for awhile in Washington.

Commissioner Ludwig said he would be interested in having a list of the locations of those 13 licensees and their proximity to a house-banked card room. **Ms. Patjens** said the list is under tab #1. She said there aren't 21 Washington Blackjack operations anymore. It's down to 11 because of the pending cases.

Commissioner Herbold asked if most of those that were remaining have one table or were they in the higher table category. **Director Bishop** said the Slo Pitch Pub and Eatery has three and they've run a good game. **Chairperson McLaughlin** asked if most of the people who have Washington Blackjack have poker tables, or were they closing a card room completely. **Commissioner Ludwig** noted a lot of King County locations, but

when he sees somebody like The Pub Tavern in Oroville or Rochans in Granite Falls, the people that might like to play Blackjack under Washington Blackjack would have to drive quite a ways to play in the house-banked game. **Director Bishop** said there are a few of them in isolated areas, such as Forks.

Chairperson McLaughlin opened the meeting for testimony from the audience.

George Teeney, La Center card room owner, said both of his clubs are in LaCenter and in the house-banked program, so this really doesn't have anything to do with him directly. One of the things that he has seen with staff and Commission over the years that he has been working with them, is that sometimes when a flat tire is on a car, instead of fixing the flat, throw away the car. And although Washington Blackjack is something needed in this state for the licensees that cannot afford or aren't willing to commit to the financial aspects of going to house banking, he thinks there is a need for some of the players in the state as well as some of the licensees in order to enjoy some of the benefits that gaming offers to licensees. He understands the difficulty of regulating Washington Blackjack. He was one of the people who helped get the game approved in the first place and they saw problems with it. The staff and Commission were helpful and in order to move the game forward so it was a more viable gaming venue in all of their clubs at that time.

Mr. Teeney said there were problems, some of which were mentioned by Director Bishop, and he did a good job of explaining how they moved forward with Washington Blackjack. The problem is that there are 10 licensees that did something that they weren't supposed to do and they absolutely should be censured for it, and he believes that they will be. It hurts him to think that 13 other operators are going to suffer the consequences that these 10 people happened to cause them. It is a difficult thing to regulate, and it would be nice to take an alternative approach that was mentioned to give the other 13 licensees the chance to see if it works for them. If it doesn't, then they can step forward and make an opinion on that. He's sorry they're not here to voice their concerns, and maybe that means it's not a big deal to them, but if it were his business, he would be present to make his thoughts heard.

Chairperson McLaughlin said a lot of them probably only have one table, and it's probably too expensive to come all the way to Pasco from Forks, or wherever, just to defend themselves. She asked if there was further testimony and there was none.

Commissioner Forrest said the overwhelming number have only one table, so that's a fairly small number of individuals. He said he thinks that the convenience of having a more informal and less complicated access doesn't really justify putting that burden of enforcement as they have just seen from their recent actions that some of them may not stick, but it looks persuasive that there was widespread abuse of the program and his inclination is to go ahead and accept the staff's recommendation and just abolish the Washington Blackjack tables. The two biggest operations are in Spokane, and he knows Spokane isn't going to suffer from lack of opportunities for people to play Blackjack. He said he is open to persuasion, but that is his inclination.

Commissioner Herbold said she agrees with Commissioner Forrest. What has always worried her about this is the fact that these Washington Blackjack dealers are not licensed. The agency goes through so many hoops to license those who are involved in the other card rooms and it doesn't seem equitable that with all of the new rules that they have been talking about that they have this segment of card playing that is not fully licensed like everyone else is. The fact that this has been on the agenda for several months and not only is no one here to defend their keeping these games who's actually operating them, but the rest of them haven't even seen fit to comment in writing or by telephone, other than one or two letters. Her inclination is to repeal Washington Blackjack based on the staff's recommendation.

Senator Prentice said she remembers a couple of these from last month's report on the big sting operation and a couple of names jumped out at her. She asked about the Non Stop and the Roxbury. The 10 under investigation are still included in the list of 21 Washington Blackjack operations in the handout packet. **Director Bishop** said they had a license to conduct card games, but they were conducting them in a manner that was not in accordance with that license.

Chairperson McLaughlin said she's having trouble just ending Washington Blackjack, for some reason. She said the Commission ought to give them time to decide whether they want to be house-banked program or not

and they can't do that as long as there is still just a pilot test program. They can't get on the list for house-banking if they're not already on that list, so she will vote no on this.

Commissioner Ludwig asked if there was a motion; **Chairperson McLaughlin** said no, there isn't a motion.

Senator Winsley asked if Blackjack is a form of Poker. **Director Bishop** said no, it's a card game, but it's not a social card game. **Senator Winsley** asked why is it not a social card game. **Director Bishop** said that, in 1997, the definition was changed to include house-banked or player-funded banked games. Traditionally, up to that point in time, the language in the social card games statute said that it had to be among players and players had to have equal chance or play on an equal basis. **Mr. Fleisher** said that was why Washington Blackjack had been considered by the Commission when they adopted it to be a social card game under the statutory definition, because of the way with the deal rotating around the table over a period of time, as the deal went all around, everyone was playing equally. He said the answer to her question under the definition in the RCW Washington Blackjack fits within the definition of a social card game. **Senator Winsley** said that as she understands it each one has to take a turn not only in dealing but in being the banker and she wondered if that was where the problem is. **Director Bishop** said it definitely fits under the definition of a social card game under the 1997 change to the statute. In fact, all of the other games that they have in the pilot program also fit under that.

Commissioner Forrest suggested starting with the most drastic action first and he moved that they abolish Washington Blackjack as a game that is authorized in Washington, **Commissioner Herbold** seconded the motion.

Vote taken; motion failed with two aye votes and two nay votes.

Chairperson McLaughlin called for another motion. **Commissioner Ludwig** moved that they adopt alternative one as a middle ground at least until this pilot program on house-banked card games is completed.

Chairperson McLaughlin seconded the motion.

Vote taken; motion carried with four aye votes.

Ms. Patjens asked for clarification on the effective date. They would probably like to have this implemented 30 days after filing; otherwise, it would normally not become effective until January 1, 2000.

Commissioner Ludwig moved to have this rule become effective 30 days after filing and that it be brought back on the agenda at the time the pilot program for house-banked card rooms is on the agenda. **Commissioner Herbold** seconded the motion. **Director Bishop** suggested they make the effective date August 1, 1999, and at that time they will have a chance to review how it goes under this alternative. **Commissioner Ludwig** agreed to the August 1, 1999, effective date and **Commissioner Herbold** agreed to that modification.

Vote taken; motion carried with four aye votes.

CARD ROOM RULE

Amendatory Section WAC 230-40-010 – Types of Games Authorized

Ms. Patjens said this one is up for final action, but they will need to make a small change to it since Washington Blackjack is not being repealed, then if the rule is to pass later, then they would change that language. They also have removed May jongg and Dominoes and the reason for that is that when the law was changed in 1997, May jongg was taken out before the law specifically said that May jongg was considered a social card game even though it is actually a tile game, so they are making the change to make it consistent with state law. Also Dominoes are obviously not card games and so that's the reason for the change there. As far as Pai Gow Poker, the reason that staff had recommended that that be taken out is that they do have the same regulatory concerns with Pai Gow Poker as they have with Washington Blackjack and she's not sure how many businesses they have out there that are actually doing Pai Gow Poker. She said there are no rules that specifically state how Pai Gow Poker is supposed to be played whereas with Washington Blackjack they do have that much specificity. The rule is up for final action. Staff recommend approval and that it be effective August 1 to keep it consistent with the past rule and then change in paragraph nine that Washington Blackjack would no longer be deleted.

Commissioner Ludwig moved to amend the proposed rule by eliminating the strikeout of Washington

Blackjack, Item No. 9. **Commissioner Forrest** seconded the motion. Chairperson McLaughlin said that it had been moved and seconded that the Commission amend WAC 230-40-010--Type of Card Games Authorized-- to stop the elimination of Washington Blackjack.
Vote taken; motion carried with four aye votes.

Ms. Patjens asked if the motion was to be effective August 1, 1999. **Commissioner Ludwig** said he thought that would come after the motion to adopt the rule as amended.

Commissioner Ludwig moved to adopt the proposed rule as amended to eliminate those other forms of games mentioned and while this may be something that is not popular with every card room, and it has the regulatory problems that Washington Blackjack did, he thinks in this case, the regulatory problems far outweigh a licensee's concern because these games are now being if played at all in a business that is already in a house-banked card game. They will go on as a house-banked card room, but just without these particular games and he doesn't see that same hardship. **Chairperson McLaughlin** asked if that included the August 1 date. **Commissioner Ludwig** said this would be effective August 1, 1999. **Commissioner Herbold** seconded the motion.

Commissioner Forrest asked how Pai Gow Poker is played. **Director Bishop** said it's hard to summarize, but it's a variation of Poker where all the cards are dealt, seven hands are made with seven cards, and from that the players split the cards up into one normal five-hand Poker hand. And then two-card Poker, and the dealer does the same thing. They play individually against the individual dealer. If both the high and the low of a player's hand beat both of the dealer's hands, then the player would win. If the dealer's beat the players, then the dealer wins. It's a variation of Poker, but the key is it's a banked game. They are not eliminating Pai Gow Poker; they are just saying that to play Pai Gow Poker, they need to be the house-banked part of the house and right now it is allowed in any Poker room. **Commissioner Forrest** asked what the special regulatory difficulty was with this game. He wondered if it presented more problems to regulate. **Director Bishop** said he didn't know if they had particular problems regulating it, but they do want the controls as far as requiring a dealer, requiring cameras, all of those other controls that they have on house-banked games. **Commissioner Ludwig** asked if this rule does not affect house-banked card rooms. **Director Bishop** answered that that was correct. He said in the draft rules that will be going out they had split the Poker game up in one group and the house-banked games in another group and they moved Pai Gow Poker down into that second group. What they've done is give them the authorized games and that included all of those they had down in the house-banked category including Pai Gow Poker.

Commissioner Ludwig said he tried to figure out how to play the game and he can't imagine it being played as a social card game. He said they would have to be an expert. **Director Bishop** said it needs someone to referee the game because typically the house hand has to be set in a specific way. There are rules for others too like the five-card hand has to always out rank the two-card hand. A player can't say they have a poor hand and put those cards in the low hand so he has a chance of tying. That is not allowed, but the house hand has to be set in a specific guidelines, so the game requires a referee.

Commissioner Forrest said he doesn't see why they will need what will be new number 10 approving of temporary case-by-case basis games that aren't set forth. It seemed to him that they have been operating for quite awhile and the number of the new games that somebody will want to offer doesn't seem to him to be very great and if they do, it doesn't take that long to bring it before the Commission. He is always a little bit uneasy about the temporary case-by-case basis situations unless there's some real need for it. **Director Bishop** said it would give them some flexibility to try some of the games. This is one of the things that came forward from the industry back when they were really struggling so they'd have some flexibility to try a game because they have variations of these things that go on. There's a big book on various card games and he's sure that is only a small portion of them. He said it just gives them a chance to try it in a test environment without bringing it before the Commission on each one of them.

Commissioner Ludwig asked if the staff had done that already for a specific game in a specific card room. **Director Bishop** said they have used that particular operating mode with the pilot program with all the new games that have come in. They authorized them to come in and be played. **Commissioner Ludwig** said he saw a game in LaCenter that was not on the list that may have been authorized just for that location.

Senator Prentice said the discussion really confirms what the Legislature's intent was in the first place when they passed the enhanced card room games. For years, they have been dealing with Pai Gow Poker and they hadn't even heard about all these problems because they didn't know about them. Now they have regulations where they are really watching people and they have become aware of the problems and she thinks they are ensuring the integrity of the games and certainly the enhanced security. She thinks that's a story that somehow or other gets lost as these events have been reported. She said there was a very solid reason for that legislation and it doesn't mean that it isn't going to be without its bumps along the road, but she thinks he just confirmed the wisdom of the Legislature in having done that in the first place.

Chairperson McLaughlin asked if anyone wished to testify.

Bob Tull, attorney from Bellingham, said he represents a number of manufacturers and one that's in the alternative-type of card program. He wanted to re-emphasize the comments of Mr. Bishop about the ability to take a look at game proposals, sort out technical issues at the staff level, cut off the ones that are inappropriate and that don't have the requisite attributes, and then eventually only bring forward to the Commission the ones that have, in essence, already been field tested. If that procedure is not available, then they would end up starting the process in front of the Commission and then having to send it off for tests and it would be most of the time a not very efficient use of the Commission's resources. His suggestion is that it be continued and it is very consistent with the APA (administrative procedures act) in an overall sense and to his knowledge it has never caused any problems in the agency and he asks for their consideration.

Chairperson McLaughlin called for any other public testimony.

Vote taken; motion carried with four aye votes.

RULES FOR DISCUSSION

ESTABLISHED BUSINESS DEFINED

Amendatory Section WAC 230-02-380

Amendatory Section WAC 230-04-080

Ms. Patjens said that, at the end of the April Commission meeting, Commissioner Ludwig asked the staff to look into the rules to address what was happening or has happened where a person starts to begin to operate both their restaurant and their house-banked card room on the same day. At the last Commission meeting they brought forward two rules to start to address this. Under the current rule, a business was considered established if they were open to the public for 90 days, but there was an exception that the business would be presumed to be established if they had received all of their permits and had given staff an estimate of what the food and drink sales were going to be compared to all of its sales.

Ms. Patjens said Item A would clarify that they actually have to be operating the food and drink business for 30 days prior to beginning to operate the gambling activity. Item 8B clarifies that the food and drink business must be open to the public at all times that the gambling business is open. Last time she highlighted a couple of issues and there was quite a bit of discussion about this rule. A couple of things to consider is that this rule would apply to all gambling activities, not just card room activities and that may be the intent, but she just wanted to highlight that is the way it's written and the other thing to consider is whether 30 days is the amount of time the commissioners want. In the discussion that occurred last month, they did get some more clarification from Commissioner Ludwig in that what he wanted them to actually have operated their restaurant for 30 days prior to applying for the gambling license. She checked with Mr. Fries to see how long it takes to process an application and it takes about 48 days and 60 days from the time that they have applied for a gambling license from the time that it's actually issued. That is 48 to 60 days after they have received a completed application. So, if the rule states that it's 30 days that they have to be operating the restaurant -- at least 30 days at the time of application - - that is probably really going to end up being about a 90-day period in between when they would actually get their gambling license. Commissioner Heavey had raised questions regarding whether they would be limiting people's business opportunities if they are required to operate at the time of application. The staff recommends further discussion.

Commissioner Ludwig said this is before the Commission on the basis of his suggestion two months ago and he's real pleased that this isn't on the final adoption list, because he is real concerned about this based on Commissioner Heavey's comments of last month and a couple of others. This month and next month they can discuss it and he thinks the Commission would benefit a great deal by hearing from the licensees and the public as much as they can.

Commissioner Forrest asked if a tavern has to have a restaurant. **Ms. Patjens** said there are certain requirements about serving food that are under the liquor laws, so they have to have more than peanuts available to customers. **Commissioner Forrest** said the way this is written now, if their food service satisfies the Liquor Board requirements, it satisfies the Commission. **Ms. Patjens** said that is correct and that is the information that's under WAC 230-04-080. What they are really talking about is adding an additional step in that it won't necessarily be sufficient to come in and get a liquor license and a gambling license on about the same day. That they will definitely have to be operating for 30 days or whatever the Commission comes up with as a required timeframe.

Chairperson McLaughlin said it used to be that the restaurant had to operate for awhile and they always had a little deal that they'd applied for their liquor license and she wondered if they do that yet. **Ms. Patjens** said she thinks they are required by state law to post if they have applied for a liquor license. **Chairperson McLaughlin** asked why the Gambling Commission couldn't do the same thing. **Ms. Patjens** said they could only they are doing it under state law. They are required to do those postings. If the Commission wanted to, it could pass a rule like that and have it posted. **Chairperson McLaughlin** asked if in the same amount of time it takes to get a liquor license why can't the gambling license correspond with that so they actually operate the restaurant during a period where there's no liquor served or gambling.

Commissioner Forrest said the posting comes before they operate anything. **Chairperson McLaughlin** said that they still had their restaurant going. **Commissioner Forrest** disagreed. He said he had seen the signs and there was no restaurant there. **Chairperson McLaughlin** said she's also gone into a restaurant to eat, but she couldn't buy a drink. **Ms. Patjens** said she thinks it does depend on whether they're in the initial phase. She said she was familiar with a business that was basically upgrading its license and so for a period of time, they could still go in and have wine or beer which the business was licensed for and then they had the posting because they wanted to be able to start serving liquor, so they probably have both examples out there.

Commissioner Ludwig asked if were the same with pull-tabs as it is with food in the example Commissioner Forrest had given – do they have to have food, too, with pull-tabs. **Ms. Patjens** said yes. **Commissioner Herbold** said that what she is struggling with in the changes that are being made where they are taking out the 90 days and saying at the time of application is, she wondered if that undermines the concept of established business because what they are basically saying is that they get all their permits on the day they open to the public, they are an established business and that defies logic to her. How can a business be established on the day it opens? She understands that they go into the qualification regarding food and drink, but just from a definition point of view, she doesn't see how on the day a business opens they are an established business and does that eventually call into question the concepts of commercial stimulant with respect to established business. She wondered if they were going down a road where they are going to have problems because of these definitions that they are changing.

Director Bishop asked Ms. Patjens about the amended section of IC doesn't refer to 30 days except in the proviso. **Ms. Patjens** said she noticed the same thing, and whatever comes out of this will need to be added back in because they do not have the period of time in the first part of 230-02-380. **Mr. Fleisher** said that partly addresses Commissioner Herbold's question. He wondered if it's said there at the end of the second line, "is open to the public for not less than 30 days at the time of license application," would that do it. **Director Bishop** said they would have been open and doing business for 30 days when they applied for a gambling license. He said that was what they intended to have in that section. **Commissioner Forrest** used an example of opening a new restaurant that has gambling. There would be 30 days that he ran the restaurant and then he would apply – and assuming it takes 30 or whatever number of days – so effectively it would be 30 plus however much time it takes to process the application.

Chairperson McLaughlin asked if this is what Commissioner Ludwig had in mind. **Commissioner Ludwig** said he's not quite sure.

Senator Prentice asked what the Liquor Control Board postings actually say because she believes that with the postings go hearings and that is a different implication. She recalled this was one of the elements of House Bill 2177, which she felt was an unwise bill to proceed with and that was one of the considerations and she made that clear that, at this time they are not geared up for something like that, so she recommended caution to be sure what commitments they are making.

Commissioner Ludwig said that initially in reference to the term "established business" he was only concerned with the proviso under that rule. He has no problem with the first paragraph and he was concerned about all of the things that could be considered or done with a change in whether or not they were established business, and then, at the last meeting, he had some thoughts about they should be an established business at the time of the application. That may have been where he confused everyone because established business just meant that they had to be in business for a period of 90 days and didn't have any reference to when they might apply and maybe the Commission shouldn't be trying to change that. They could apply, but they wouldn't get their license until after they had been in business for 90 days. They'd qualify before the license was issued rather than before the application. He repeated that this was just for discussion purposes and he is glad they are going to get to look at this a few more times.

Chairperson McLaughlin said there must be some way that people circumvent that because she knows one of the enhanced card rooms in Everett opened their gambling the same day they opened their restaurant. **Director Bishop** said that was under the proviso of the current rule that allowed them to come forward with a business plan that showed the staff that they had the capability of being a food and drink business and in fact it worked, because they were able to serve meals and drinks the day they opened. The concern was that they shouldn't just open gambling and then later get their food and drink business that they have to have. The current rule, if the proviso were removed, it's unclear when someone buys an ongoing business. This occurs all the time in taverns. For example, an owner of a tavern wants to sell and the buyer requires a contingency that says the sale is effective only if the Gambling Commission will issue a license and they work it out – they do an application and an investigation and approve it and the transfer is made with no break in the business per se except that there is a different owner. He said they need a proviso of some sort to take care of that.

Commissioner Ludwig said it was never his intent to limit the sale of established businesses. His feeling is somewhat consistent with Commissioner Herbold's concern that the commercial stimulant is being crowded a bit if somebody goes out to start a new card game, food and drink was only there as a stimulant to the card room as a qualification for the card room. **Ms. Patjens** said one option would be to go back to the original rule that was on the agenda last month and that may be more what Commissioner Ludwig's original intent was. If there are commissioners who are interested in having it to be at the time of application they can always, just for the ease of the Commission, have an alternative like that on the agenda next month, one which would talk about at the time of application actually being a food and drink business and the other that is back to more of what this original one was. At the last Commission meeting, the Commission did not vote formally to file any type of alternatives. She thinks it really was left to just continue to have discussion on it. She said they may have a few things that still must be adjusted, but that it sounds like that original version is more what his intent was.

Chairperson McLaughlin called for public testimony on the definition of "established business."

Mr. Tull stated he was speaking on behalf of the RGA, which involves many of the card room owners in the state. He appreciates Commissioner Ludwig's bringing up the debate and it's too early to tell what the Commission's consensus might be. He said the RGA would continue look at this proposal and to try to talk with staff about some of the practicalities. It may be appropriate next month if the schedule will allow it to assist the staff in presenting to the Commission a little bit more of a detailed step-by-step overview of how people get licensed – the interplay between the liquor licensing and the gambling licensing process. He said he had gaps in his knowledge and he thinks there is a good possibility that those who would be hurt by a rule of this type – without knowing what the rule is like – would be financially, the weakest and smallest operators. In his experience of the land use regulation arena is that the bar keeps getting raised as to how much information, how

many studies, and how much time it takes before they can take a product to the market and what that means is only the richest developers and biggest companies can afford to make it through the process and only they can afford to patiently wait out the processes. This Commission is not interested in raising the bar unnecessarily where it would effect small operators or people from trying to get into some of these businesses. He said the question of when is it important to be an established business and how to coordinate things is something they can all contribute some ideas on as this goes forward, but the important thing to remember is to be careful how far that bar is raised because if it's too high, it won't be a big difficulty for the person with the really long legs; it'll be a real problem for the person who is struggling to put their dream onto the ground and have reality facing them every day. He gave a few examples to illustrate his point and he said there are issues here that go way beyond the question of "Is it a good idea to convert dark restaurants into new facilities?" He said it's a fascinating question and he thinks the commissioners are appropriately concerned about how it plays and they look forward to working with staff in the future.

Commissioner Forrest said it may be the legalistic mind, but "established business" does suggest to him that it should be operating for some period of time. It doesn't make sense to him that if someone can come in and buy a building and then open up a restaurant, gambling and bar on the same day as he gets his license. He said the Legislature must have intended the term "established business" to mean something. He said it suggested to him that there is a going business that has been going at least for some appreciable period of time. He asked if that was silly.

Mr. Tull said Commissioner Forrest wasn't being silly, but he does disagree with him. It seems to him that "established business" is a term the Commission gets to define and that's what they are working on. They have to recognize it in due course that it'll sift itself out. In the meantime, however, he's not sure what the regulatory benefit to the public interest in Washington is of saying that someone who spends \$10 million to convert a building and to put in a nice restaurant and lounge and a pull-tab bar and a dance hall and an area for a card room what the benefit is of having them have to delay the employment of the card room people and the pull-tab people for some period of time. When they came up with the first few million bucks to buy the property and start the architectural process and permitting process, they're pretty well established as being a business entity and the question of should there be a specific requirement that food and drink is sold for a certain period before they can have gambling doesn't get at the issue of established business – that would just be is there a regulatory purpose served by having that particular bar to clear. There may be under certain circumstances. It may have to do with experience, it may have to do with people's ability to show that they can operate in a regulatory type of context, but they go through some of that in the licensing process anyway. And when it comes to the gambling side, they are very specifically requiring evidence of adequate experience. **Commissioner Forrest** wondered if they had picked up the requirement of an "established business" from the statute and then put it in the rule.

Director Bishop said it's in the statute. **Commissioner Forrest** suggested they take the term out. **Mr. Tull** said he thinks it's very easy to comply with it and he thinks the Commission has evolved over the years a very workable system. He said he's not aware of a problem here that needs to be fixed.

Senator Prentice said it seems to her that the term may have more to do with a bona fide business as opposed to a store front – a business which does not intend to be there. If they have invested the kind of money they've seen invested, they are going to be there, so they will be established. She said it could be discussed forever, but it suddenly occurred to her that now they have a lot of people who float around and that's not who these guys are. **Mr. Tull** said that Director Bishop pointed out that they require that people show the legitimacy of their food and beverage business before they qualify under this. **Senator Prentice** said that is ongoing by the activities of this Commission.

Bob Brennen, Royal Casino, asked the Commission when they figure Eagle Hardware was an established business. **Chairperson McLaughlin** said the day they said they were coming. **Mr. Brennen** said that was his point.

Chairperson McLaughlin asked if anyone else wished to testify. No one came forward. She said the discussion would be held over another month.

PUBLIC DISCLOSURE

Amendatory Section WAC 230-04-020

Amendatory Section WAC 230-60-025

Ms. Patjens said there were two rules that were filed after the last Commission meeting and as she explained then, they had been reviewing the state law on secondary dissemination of criminal history information and then also their own internal policy on how they handled those records and found that these two rules were more restrictive and not necessarily consistent with what state law says, so these rules clarify that yes conviction data can be given to the public because it is a public record and then secondly which isn't a change but makes it clear that non conviction data which is arrest information that doesn't end of resulting in conviction data would not be released to the public. The staff recommends further discussion. This rule will be held over for an additional month because of their filing deadlines.

Chairperson McLaughlin asked if anyone wished to testify. She said they would discuss this again next month.

OTHER BUSINESS/GENERAL DISCUSSION/COMMENTS FROM THE PUBLIC

Chairperson McLaughlin asked if anyone wished to say anything that is not on the agenda. She said they had not heard from their attorney general on whether or not charitable or non profit organizations could have video pull-tabs. She said that would be held over. **Commissioner Herbold** asked if there was a time on that. She said originally it was 60 to 90 days. **Chairperson McLaughlin** said she was told that it would be the end of this month. Mr. McCoy said there was no formal timeline, but his expectation is that probably by the end of this month or at least by the next Commission meeting.

Chairperson McLaughlin asked for further comments from the public or the commissioners. **Commissioner Herbold** thanked Chairperson McLaughlin for a year of excellent chairmanship. **Chairperson McLaughlin** said she received a letter yesterday which she discussed with the staff, but since they saw it for the first time, they need to do some acting on it so she would put it aside for now. **Senator Prentice** said she has seldom worked with a chairperson who worked so hard to be balanced and fair in her approach and her views.

MEETING ADJOURNED

Minutes submitted to the Commission for approval.

Susan D. Yeager, Executive Assistant